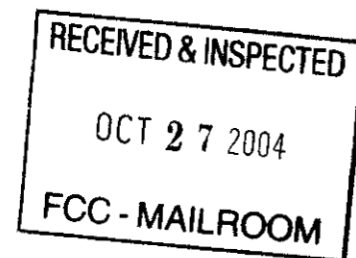


DOCKET FILE COPY ORIGINAL



October 27, 2004

Ms. Marlene Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
12<sup>th</sup> Street Lobby - TW - A325  
Washington, D.C. 20554

Re: Petition for Rule Making  
Holliday, Texas

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of a  
Petition for Rule Making to add Channel 248C1 at Holliday,  
Texas.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Charles Crawford", written over a horizontal line.

Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205  
(214) 520-7077 Tele

Archer Cover

No. of Copies rec'd 014  
List ABOVE  
MB 04-129

RECEIVED & INSPECTED  
OCT 27 2004  
FCC - MAILROOM

To: John Karousos, Assistant Chief  
Audio Division of the  
Media Bureau

PETITION FOR RULE MAKING

Pursuant to 47 C.F.R. 1.401, Charles Crawford respectfully petitions the FCC to institute a Rule Making proceeding to amend the FM Table of Allotments to add Channel 248C1 at Holliday, Texas.

## DISCUSSION

Petitioner respectfully submits that the public interest would be served by allocating Channel 248C1 to Holliday, Texas as that community's first local FM service. Holliday, Texas is an incorporated city with a population of 1,632 people.<sup>1</sup> Holliday has its own mayor, its own post, fire department, police department and city offices. Additionally, Holliday has its own school system, the Holliday Independent School District and a number of

<sup>1</sup> Source, Texas Almanac 2002/2003

local churches. Holliday is a community that is certainly deserving of local FM service. The proposed channel 248C1 will provide additional diversity and an outlet for local self-expression to Holliday residents and therefore is in the public interest. "Local radio stations play an important role in their communities, providing local news, information and entertainment to residents, and generally serving as good corporate citizens in the local community life. This is particularly true in smaller towns, where the radio stations are limited in number. Yet there are still rural areas of our country that do not have even a local radio station."<sup>2</sup>

In order to allot Channel 248C1 at Holliday, Texas, two vacant allotments must be moved to different but equal channels. The vacant allotment for Channel 248C2 at Archer City must be moved to Channel 299C2. Also, the vacant allotment for Channel 248A at Wellington, Texas must be moved to channel 246A.

The proposed changes are:

	<u>Current</u>	<u>Proposed</u>
Holliday, TX	-----	248C1
Archer City, TX	248C2	299C2
Wellington, TX	248A	246A

Attached hereto is a channel study confirming that

---

<sup>2</sup> Statement of Commissioner Kevin J. Martin, MM & O, MM Docket 99-240, released May 20, 2004.

Channel 248C1 can be allocated to Holliday, Texas, consistent with the FCC's FM separation rules provided the changes are made at Archer City and Wellington. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment A) Note: per Report & Order, DA 03-2468, MB Docket No. 03-116, released July 25, 2003, the FM Table of Allotments for Archer City, Texas was amended to reflect 248C2. (See, Attachment B) Also Note: per Memorandum Opinion and Order, FCC 01-317, released October 26, 2001, page 8, number 18, ". . . . the construction permit for station KRZB(FM) will expire three years from the release date of this order. Texas Grace must complete construction by that date and timely file an application for a license to cover the authorized facilities. Failure to file a timely license application will result in the automatic cancellation of the KRZB(FM) construction permit." (See, Attachment C) No license to cover has been filed and in fact the 464.8 meter tower at the KRZB construction permit coordinates has not been constructed. Therefore, the permit for Channel 248C2 at Archer City, Texas was automatically forfeited as of October 26, 2001. Additionally, please note that the counterproposal to add Channel 248C at Keller, Texas was

dismissed per Report & Order, DA 03-1533, released May 8, 2003. (See, Attachment D) That action was subsequently upheld per the Commission's Memorandum Opinion and Order(released on April 27, 2004). The Commission's decision in MM Docket 00-148 is effective, although not yet final owing to a pending Application for Review. That Application for Review is, however, no impediment to the consideration of the petition to allot Channel 248C1 to Holliday, Texas, in accordance with the policy set forth in the Memorandum Opinion and Order in MM Docket No. 01-104 (*Auburn, Alabama, et al*), that "We...believe that accepting rulemaking proposals that rely upon actions in earlier rulemaking proceedings that are effective but not final will benefit the public."

Reference coordinates for Channel 248C1 at Holliday, Texas are:

33 38 00 N  
98 58 00 W

In order to allot Channel 248C1 to Holliday, Texas, the vacant allotment for Channel 248C2 at Archer City, Texas must be moved to Channel 299C2. Attached hereto is a channel study confirming that Channel 299C2 can be allocated to Archer City, Texas, consistent with the FCC's FM separation rules. See revision of FM Assignment

Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment E) Note: the counterproposal to add channel 298C2 at Seymour, Texas was also dismissed per Report & Order, DA 03-1533, released May 8, 2003. (See, Attachment D) Additionally, please note that the petition for Channel 299C3 at Holliday, Texas was withdrawn on October 1, 2004, effective but not yet final dismissal, (See, Attachment F) and the petition to add Channel 298A at Woodson, Texas was also withdrawn on October 1, 2004, effective but not yet final dismissal. (See, Attachment G).

Reference coordinates for 299C2 at Archer City, Texas are:

33 32 30 N  
98 46 30 W

Also, in order to allot Channel 248C1 to Holliday, Texas, the vacant allotment for Channel 248A at Wellington, Texas must be moved to Channel 246A. Attached hereto is a channel study confirming that Channel 246A can be allocated to Wellington, Texas, consistent with the FCC's FM separation rules. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment H) Reference coordinates for 246A at Wellington, Texas are:

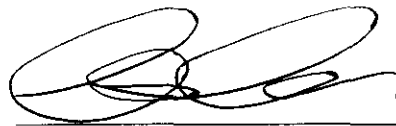
34 56 51 N  
100 19 10 W

Should this petition be granted and Channel 248C1 is allotted to Holliday, Texas, Petitioner will apply for

Channel 248C1 at Holliday and after it is authorized, will promptly construct the new facility.

The factual information provided in this Petition for Rule Making is correct and true to the best of my knowledge.

Respectfully submitted



Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205  
(214) 520-7077                      Tele

cc: Gene A. Bechtel, Law Offices of Gene Bechtel, Suite 600, 1050 17<sup>th</sup> Street, N.W., Washington, D.C. 20036, telephone (202) 496-1289, telecopier (301) 762-0156, attorney for Charles Crawford. It is requested that the Commission and any parties who may file pleadings in the captioned matter serve copies to Mr. Bechtel as well as Charles Crawford.

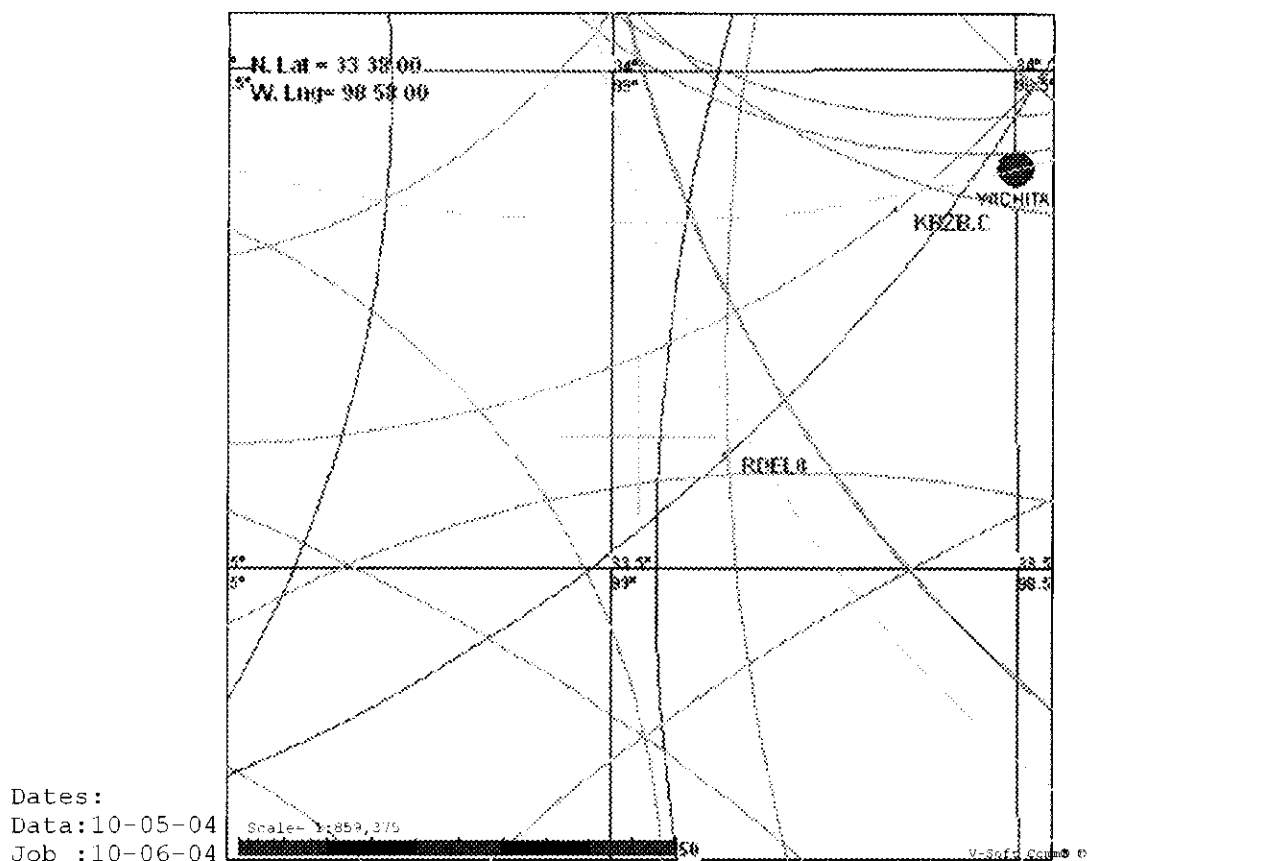
October 27, 2004

Holliday Tw

**Attachment A**

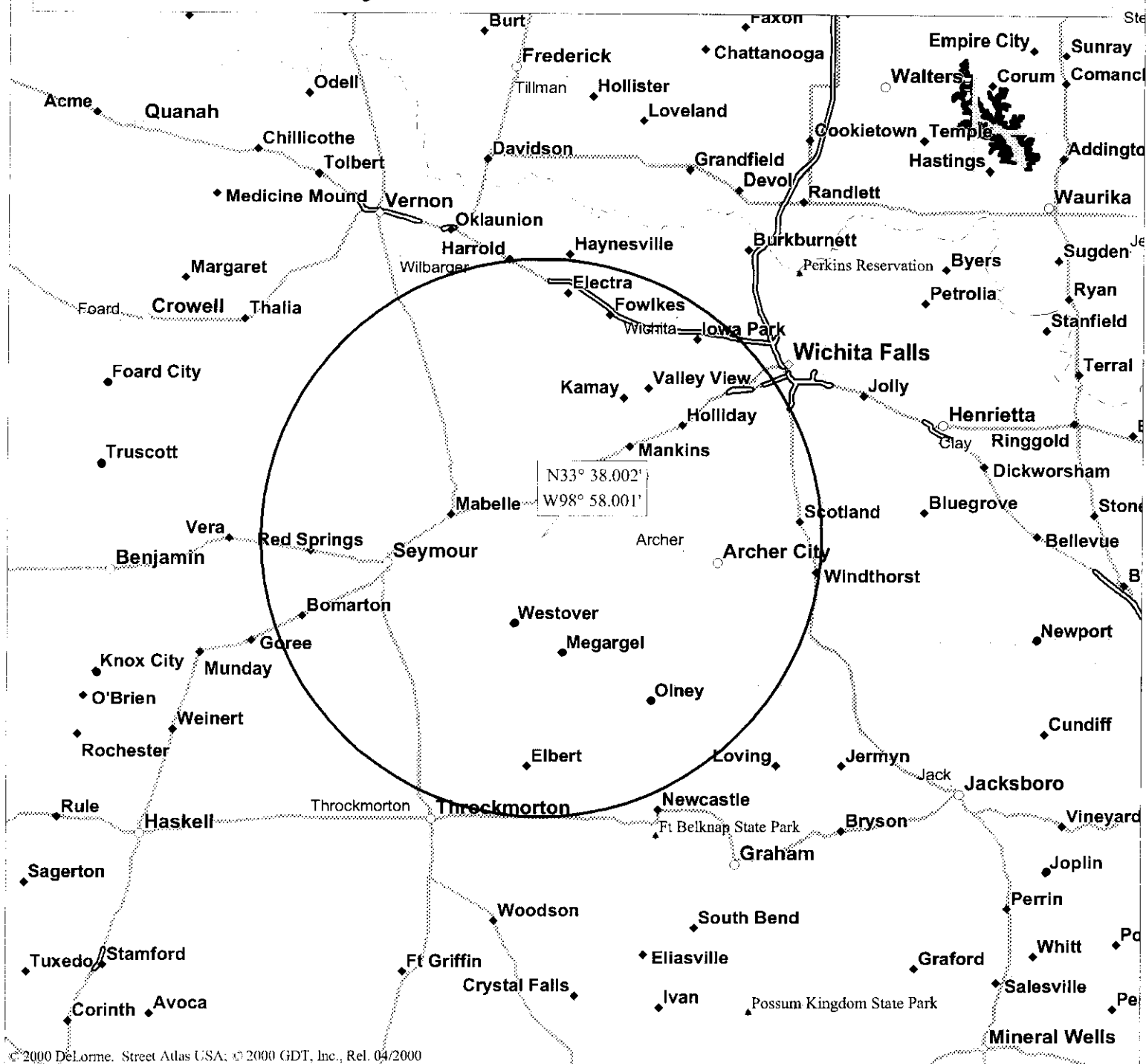
(Channel Study for Channel 248C1 at Holliday, Texas)





Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
AL248	248C1	RSV	Archer City	TX	9.93	101.1	245.0	-235.07
RDEL	248C1	DEL	Archer City	TX	9.93	101.1	245.0	-235.07
KRZB.C	248C2	CP	Archer City	TX	38.88	49.2	224.0	-185.12
RADD	248C	ADD	Keller	TX	139.37	98.6	270.0	-130.63
RADD	248C	ADD	Keller	TX	139.37	98.6	270.0	-130.63
AL248	248A	VAC	Wellington	TX	191.74	320.0	200.0	-8.26
RADD	248C2	ADD	Tom Bean	TX	226.52	93.6	224.0	2.52
KATX	249A	LIC	Eastland	TX	138.36	172.5	133.0	5.36
KATX.A	249A	APP	Eastland	TX	138.36	172.5	133.0	5.36
KHIM	249A	LIC	Mangum	OK	141.26	339.3	133.0	8.26
RDEL	248C2	DEL	Durant	OK	234.13	87.7	224.0	10.13
RDEL	248C2	DEL	Durant	OK	234.13	87.7	224.0	10.13
KLAK	248C2	LIC	Durant	OK	234.13	87.7	224.0	10.13
RDEL	249C3	DEL	Healdton	OK	154.78	61.4	144.0	10.78
KVRPFM	246C1	LIC	Haskell	TX	94.79	236.6	82.0	12.79
KICM	249C3	LIC	Healdton	OK	160.33	59.7	144.0	16.33
KICM.C	249C3	CP	Healdton	OK	160.53	59.8	144.0	16.53
KWEYFM	247C1	LIC	Weatherford	OK	200.92	359.4	177.0	23.92
RDEL	247C1	DEL	Weatherford	OK	200.92	359.4	177.0	23.92
KGKLFM	248C1	LIC	San Angelo	TX	273.21	210.1	245.0	28.21
KWTXFC	248C*	CP	Waco	TX	298.41	148.2	270.0	28.41
KWTXFM	248C	LIC	Waco	TX	298.42	148.2	270.0	28.42
RADD	249A	ADD	Roaring Springs	TX	165.93	283.2	133.0	32.93
AL245	245A	VAC	Eldorado	OK	112.44	326.3	75.0	37.44
KJMZ.A	250A	APP	Cache	OK	113.11	19.7	75.0	38.11
KJMZ	251C1	LIC	Lawton	OK	120.37	27.8	82.0	38.37
AL250	250A	RSV	Cache	OK	116.46	18.6	75.0	41.46
KFQXFM	251C2	LIC	Anson	TX	135.75	217.7	79.0	56.75

# Holliday, TX CH 248C1 70 dBu



© 2000 DeLorme, Street Atlas USA; © 2000 GDT, Inc., Rel. 04/2000

Mag 9.00

Wed Oct 06 09:48 2004

Scale 1:1,000,000 (at center)

20 Miles

20 KM

- Local Road
- Interstate/Limited Access
- Toll Highway
- Major Road
- Major Highway
- County Seat
- Large City
- ▲ Park/Reservation

- City
- ✈ Sched Service Airport
- ◆ Small Town
- State Boundary
- County Boundary
- Water
- ▭ Inundated Area

**Attachment B**

Report & Order, DA 03-2468, MB Docket No. 03-116, Released  
July 25, 2003)

7/25/03

Federal Communications Commission

DA 03-2468

ERG

DOCKET FILE COPY ORIGINAL

Before the  
Federal Communications Commission  
Washington, D.C. 20554

Jul 2

In the Matter of

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Archer City, Texas)

MB Docket No. 03-116

**REPORT AND ORDER**

(Proceeding Terminated)

**Adopted: July 24, 2003**

**Released: July 25, 2003**

By the Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making* in this proceeding proposing the substitution of Channel 248C2 for Channel 248C1 at Archer City, Texas.<sup>1</sup> This would conform the FM Table of Allotments to reflect the current authorization of Station KRZB, Channel 248C2, Archer City, Texas (BMPH-19990217IB). Texas Grace Communications ("Texas Grace"), permittee of Station KRZB, filed Comments supporting the proposed channel substitution. For the reasons discussed below, we are amending the FM Table of Allotments to specify Channel 248C2 at Archer City, Texas.

Background

2. In the *Report and Order* in MM Docket No. 99-23, we substituted Channel 248C1 for Channel 248C2 at Archer City, Texas, and modified the Texas Grace construction permit for Station KRZB, Archer City, to specify operation on Channel 248C1.<sup>2</sup> That action became effective on January 18, 2000. That action was also specifically conditioned upon Texas Grace filing an application to implement this upgrade within 90 days of the effective date. Texas Grace has not done so. For this reason, we, on our own motion, issued the *Notice* in this proceeding proposing the substitution of Channel 248C2 for Channel 248C1 at Archer City.

3. In response to the *Notice*, Texas Grace filed Comments supporting the proposed channel substitution and stating that it has no intention of implementing a Channel 248C1 operation at Archer City. As such, continuing to protect a Channel 248C1 allotment at Archer City results in an unwarranted preclusionary impact which unnecessarily frustrates the introduction of additional service to many communities in Texas and Oklahoma. Therefore, we are substituting Channel 248C2 for Channel 248C1 at Archer City.<sup>3</sup>

<sup>1</sup> 18 FCC Rcd 9498 (Media Bur. 2003).

<sup>2</sup> *Tipton, Mangum, Eldorado and Granite, Oklahoma, and Archer City, Texas*, 14 FCC Rcd 21161 (M.M. Bur. 1999).

<sup>3</sup> The reference coordinates for the Channel 248C2 allotment at Archer City, Texas, are 33-51-40 and 98-38-52.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c) (1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b), and 0.283 of the Commission's Rules, IT IS ORDERED, That effective September 8, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows

<u>City</u>	<u>Channel No.</u>
Archer City, Texas	248C2

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED

6. For further information concerning this proceeding, contact Robert Hayne, Media Bureau  
(202) 418-2177

FEDERAL COMMUNICATION COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

**Attachment C**

(Memorandum Opinion & Order, FCC 01-317, released October 26, 2001, providing authorization for station KRZB, Channel 248C2 at Archer City, Texas)

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Texas Grace Communications	)	File No. BPH-19960201MB,
	)	as modified by
Request to Toll the Period to	)	BMPH-19990217IB
Construct Unbuilt Station KRZB(FM)	)	
Archer City, Texas	)	
	)	
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted:** October 26, 2001

**Released:** October 26, 2001

By the Commission:

1. The Commission has before it a January 16, 2001 Application for Review and amendments thereto filed by Texas Grace Communications ("Texas Grace"), permittee of unbuilt broadcast station KRZB(FM), Archer City, Texas. Texas Grace seeks review of a December 14, 2000 letter decision denying reconsideration of the staff's October 20, 2000 denial of its request to "toll" the KRZB construction period. See 47 C.F.R. § 73.3598(b)(1). On January 23, 2001, Texas Grace filed a second pleading requesting that the Commission also issue an "Emergency Stay" to toll the KRZB construction period during the pendency of this proceeding and any appeal thereof. For the reasons detailed below, we will deny Texas Grace's Application for Review as well as its stay request. However, on our own motion we will waive Section 73.3598 to extend Texas Grace's construction period to provide Texas Grace three years from the release date of this order to complete construction and to file a covering license application. We also provide additional guidance on our broadcast station construction requirements to ensure uniform application of those requirements in the future.

2. Background. Texas Grace's initial permit to serve Olney, Texas on Channel 248C2 (97.5 MHz) was granted on October 7, 1996. On August 7, 1997, Texas Grace filed a petition for rulemaking seeking to modify the FM Table of Allotments to change KRZB's community of license from Olney to Archer City, Texas. The staff adopted this proposal and added a new channel in Archer City on September 23, 1998.<sup>1</sup> That rule change became effective on November 17, 1998. To implement the allotment change, Texas Grace timely filed a minor change application to modify the community of license specified in its permit from Olney to Archer City.<sup>2</sup> On February 7, 2000 the staff granted Texas Grace's Archer City

<sup>1</sup> *In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Olney, Archer [sic], Denison-Sherman and Azle Texas; and Lawton, Oklahoma)*, MM Docket No. 97-225, 13 FCC Rcd 18920, 18922 (1998) ("Archer City R&O") adopting proposal in 12 FCC Rcd 17512 (1997) ("Archer City Notice").

<sup>2</sup> However, Texas Grace never filed an application to implement a subsequent amendment of the Commission's FM Table of Allotments, 47 C.F.R. §73.202, which upgraded the Archer City allotment to Channel 248C1. Texas Grace requested that amendment, which became effective on January 18, 2000, as a counterproposal to the request of another party in an additional rulemaking proceeding. *In the Matter of Amendment of Section* (continued....)

application and extended the construction deadline to February 7, 2001.

3. While the Archer City application was pending, Texas Grace encountered various difficulties, including health problems of its principal. On March 5, 1999 Texas Grace notified the staff of its belief that its construction deadline should be extended. It made this request in accordance with our new broadcast construction rules, which provide for tolling in limited circumstances. 47 C.F.R. § 73.3598(b). *See Report and Order*, MM Docket No. 98-43, 13 FCC Rcd 23056, 23090-93 (1998) ("*Streamlining R&O*"), *recon. granted in part and denied in part*, 14 FCC Rcd 17525 (1999) ("*Streamlining MO&O*"). On October 20, 2000, the staff denied Texas Grace's tolling request. Texas Grace filed a petition for reconsideration, which the staff denied on December 14, 2000. The staff concluded that none of the circumstances Texas Grace detailed – health problems and various alleged permit "encumbrances" including rulemaking proceedings, related applications, and the amount of time the staff took to act on Texas Grace's initial tolling request – were qualifying tolling events. The staff also held that Texas Grace was incorrect in its assertion that it was entitled under the Commission's rules to a new three-year construction period to build in Archer City. Texas Grace filed the subject Application for Review on January 16, 2001. On January 23, 2001 Texas Grace filed an "Emergency Motion for Stay."

4. On March 5, 2001, while the Application for Review and Stay Request were pending, the staff issued a letter at Texas Grace's request concerning the status of the Archer City permit. The staff letter states:

Should the Commission grant review, the Commission's *Order* will specify a new construction deadline. In the event that the Commission denies review, Texas Grace will have 79 days to complete construction and file a covering license application, commencing on the date such an *Order* is released.

The 79-day period is equal to the period of time between November 20, 2000, the date on which Texas Grace filed its Petition for Reconsideration, and the February 7, 2001 construction permit expiration. This suggests that the staff believed that the filing of the petition for reconsideration and pendency of the Application for Review of the denial of Texas Grace's tolling request would qualify as "encumbrances," and therefore would toll the running of the KRZB(FM) construction period.

5. Discussion. The Commission will grant an application for review only if the applicant demonstrates that the staff's decision: (1) conflicts with statute, regulation, case precedent, or established Commission policy; (2) involves a question of law or policy that has not been previously resolved by the Commission; (3) involves precedent or policy that should be overturned or revised; (4) makes an erroneous finding as to an important or material question of fact; or (5) commits a prejudicial procedural error. 47 C.F.R. § 1.115(b)(2)(i)-(v). Texas Grace's application for review consists of many allegations that focus on three core issues. First, Texas Grace contends that the staff erred in failing to treat the Archer City construction permit as an original construction permit for a "new" station that would be entitled to a new three-year construction period. Next, Texas Grace claims the staff erred in finding that its permit was not encumbered by administrative review. Finally, Texas Grace raises for the first time an allegation that the

(Continued from previous page)

73.202(b), *Table of Allotments, FM Broadcast Stations (Tipton, Mangu, Eldorado and Granite, Oklahoma, and Archer City, Texas)*, MM Docket No. 99-23, 14 FCC Rcd 21161 (1999) ("*Oklahoma R&O*").



staff's action conflicts with a staff waiver of the construction rules for unbuilt station KLTR(FM), Caldwell, Texas.<sup>3</sup>

6. The staff correctly rejected Texas Grace's claim that it is entitled to a new three-year construction period, to begin on February 7, 2000.<sup>4</sup> On that date, the Mass Media Bureau modified the Olney permit to change the community of license to Archer City. Texas Grace is simply mistaken in its view that the staff's October 1997 issuance of a Notice of Proposed Rulemaking, *proposing* at Texas Grace's request to amend the FM Table of Allotments to specify Archer City instead of Olney, in some fashion cancelled or terminated the outstanding Olney permit. It is further mistaken in asserting that the staff's subsequent modification of the Olney construction permit to specify Archer City is treated under the Commission's rules as a new "original" construction permit.<sup>5</sup>

7. Community of license changes are modifications of outstanding authorizations. *See* 47 C.F.R. § 1.420(i) (permit's community of license may be modified in a rulemaking proceeding if the amended allotment would be mutually exclusive with the present assignment). Pursuant to the rules governing such changes, the staff properly considered Texas Grace's request to change KRZB's community of license as a modification of the station's existing permit, and not as a new original permit. Significantly, Texas Grace's August 7, 1997 rulemaking petition properly requested "that the construction permit of KRZB be modified to specify Archer City, Texas, as the station's community of license" (emphasis added). In response, the Commission issued a rulemaking proposal and a final order, both of which refer to this matter as a modification. In filing its application to implement this rulemaking, Texas Grace submitted the appropriate fee (\$725) for an application to modify an existing permit, not the fee (\$2600) for a new construction permit. Further, in providing required responses on the application form about the purpose of the application, Texas Grace correctly described the application as a "modification" of the outstanding Olney permit, file number BPH-960201MB, rather than as a "new station."<sup>6</sup> Finally, the Archer City permit itself, file number BMPH-19990217IB, carries a modified FM station construction permit prefix, "BMPH", in which the "M" is an abbreviation for "modified" under the Commission's broadcast application numbering system.

8. Texas Grace maintains that the *Archer City Notice* issued in October 1997 rendered its Olney permit "no longer relevant or viable" because the Commission "noticed deletion of this Permit,

<sup>3</sup> We have considered Texas Grace's allegations about the staff's handling of the December 14, 2000 letter, have read that letter, and find those allegations unsupported. Texas Grace has also complained that it has not been given due process in the treatment of its pleadings and arguments. We have considered these arguments and find them without merit. Texas Grace was entitled to seek Commission level review of the staff's decision. We have fully considered the application for review and amendments in a manner consistent with our statute and regulations. We find no basis for further review of these issues.

<sup>4</sup> Texas Grace based its three-year claim, in part, on allegedly having received staff advice to that effect prior to issuance of the Archer City permit. While we would regret any erroneous advice that may have been given, it is well established that a permittee may not rely on informal advice from staff. *See Texas Media Group, Inc.*, 5 FCC Red 2851, 2852 (1990), *aff'd sub. nom. Malkan FM Associates v. FCC*, 935 F.2d 1313 (D.C. Cir. 1991).

<sup>5</sup> *See* 47 C.F.R. § 73.3598(a) (original FM construction permits shall specify a construction "period of three years from the date of issuance of the original construction permit").

<sup>6</sup> *See* Application, Section I, Section V-B, and Exhibit 2. *See also* Section V-B and Exhibits 3-4 of Texas Grace's June 22, 1999 amendment.

stating that the public interest would better be served if KRZB instead provided service at the new community of Archer City. . .” *Application for Review* at 3, 6. Texas Grace’s argument is erroneous. As a threshold matter, it was Texas Grace that filed a petition for rulemaking and requested the reallocation of its channel to Archer City and modification of its permit to specify Archer City; nothing compelled it to seek that reallocation and modification. Furthermore, even after it initiated the rulemaking proceeding, nothing prevented it from constructing its station at Olney. In this connection, the *Archer City Notice* did not find that “the public interest would better be served if KRZB instead provided service at the new community of Archer City,” as Texas Grace asserts; it simply stated that “petitioner’s proposal warrants consideration” and sought comment on that proposal. *Archer City Notice*, 12 FCC Rcd at 17513. That Notice did not delete the Olney channel or otherwise invalidate Texas Grace’s permit, as Texas Grace contends. Nor did the Report and Order in that proceeding impair Texas Grace’s authority to construct its station at Olney.<sup>7</sup> Texas Grace had valid continuing authority to construct its station in Olney until February 7, 2000, when the staff, at Texas Grace’s request, modified the permit to specify Archer City as the community of license.<sup>8</sup>

9. We recognize, of course, that Texas Grace filed the Archer City petition for rulemaking because it preferred to construct a station that would serve this community. When the Commission decided in the *Streamlining R&O* to expand the radio station construction period from 18 to 36 months, it also eliminated former Section 73.3535(d) and its former practice of providing additional time for construction after a permit has been modified. *Streamlining R&O*, 13 FCC Rcd at 23090 (“in light of these new procedures, we eliminate the current practice of providing additional time for construction after a permit has been modified or assigned.”). On reconsideration, the Commission was specifically requested to expand tolling during “the pendency of petitions for rule making affecting a station’s frequency and/or class” and “modification applications.” *Streamlining MO&O*, 14 FCC Rcd at 17538-39. We denied those petitions. In so doing, it was our intent to limit tolling to those circumstances explicitly mentioned in the *Streamlining* decisions or in our rules. See 47 C.F.R. § 73.3598. Thus, a construction deadline would not be extended when, as here, the Commission modifies a station’s original permit at the station’s request or when the applicant otherwise voluntarily participates in a rulemaking proceeding.<sup>9</sup> This policy is designed

<sup>7</sup> The *Archer City R&O* conditioned modification of Texas Grace’s permit on submission of a minor change application and the filing of any required environmental assessment for the new transmitter site. See *Archer City R&O*, 13 FCC Rcd at 18922. Until the application was submitted and granted, Texas Grace continued to have authority to construct its station at Olney.

<sup>8</sup> In a July 27, 2001 supplemental submission, Texas Grace seeks to clarify its arguments concerning the starting date of its three-year period. Texas Grace maintains that it had no authority to construct any station on February 16, 1999, a date used to determine a permittee’s eligibility to avail itself of the three-year provisions of the *Streamlining MO&O*. It asserts that it did not apply for an Archer City permit until the following day, February 17, 1999, and that the community of Olney was deleted from the table of allotments, effective November 17, 1998. Accordingly, Texas Grace believes that its three year construction period could not start, at the earliest, until the grant of the Archer City permit. This view is incorrect. On February 16, 1999, Texas Grace held a valid permit for Olney and thus was entitled, pursuant to the *Streamlining MO&O*, to an expiration date no earlier than December 21, 2000. *Streamlining MO&O*, 14 FCC Rcd at 17536. Texas Grace received what it was entitled to because its permit, as modified, did not expire until February 7, 2001.

<sup>9</sup> Texas Grace initiated the rulemaking proceeding in Docket No. 97-225, concerning the Olney and Archer City allotments, and other parties filed counterproposals. Texas Grace maintains that rulemaking proposals by others drew it into subsequent Archer City rulemaking proceedings involuntarily. With respect to Docket No. 99-23, the record indicates that the party initiating that proceeding proposed changes only to allotments in Oklahoma. (continued....)

to encourage prompt construction and to discourage permittees from using the permit modification process to warehouse spectrum. *Streamlining R&O*, 13 FCC Rcd at 23093. It is also a policy designed to promote prompt introduction of service to the public by clearly placing on each permittee's shoulders the burden of completing construction by a certain date. Indeed, our action in the *Streamlining Order* doubling the construction period for a new radio station reflected a specific balancing of our interest in expeditious construction and avoiding waste of Commission and applicant resources on an endless variety of requests to extend the authorized construction period. See *Streamlining MO&O*, 14 FCC Rcd at 17533, 17539. The substantial additional time afforded by the new construction period was in large part intended to permit applicants enough time to resolve local land use issues and to make whatever reasonable changes in its permit or proposed facilities were necessary, and still be able to construct the station without seeking extensions from the Commission. *Id.* at 17539-17541. Accordingly, the staff acted consistently with our intent when it included the period during which the Olney construction permit was outstanding and unencumbered (October 7, 1996 through February 7, 2000) in calculating the construction deadline for the Archer City facility.

10. Unfortunately, in the course of the present proceeding, we have come to realize that our intent may not have been completely clear to permittees with then-outstanding modification requests stemming from rulemaking proceedings. Specifically, while noting our receipt of requests to expand our tolling provisions to recognize modifications and rulemaking requests, we denied those requests without discussion. See *Streamlining MO&O*, 14 FCC Rcd at 17538. A permittee, like Texas Grace, might have concluded that reliance on mere facilities modifications involving frequency or class would be insufficient to trigger tolling, but that a facility change coupled with a community of license change might be treated differently. In view of this circumstance, we will waive our rules to provide Texas Grace with an additional three years to complete construction, commencing with the release date of this order. With respect to future cases, however, we emphasize that only the circumstances explicitly identified in Section 73.3598(b) of our rules and in our *Streamlining* decisions will toll a permit. These circumstances are limited to the following: (1) construction is prevented due to an act of God defined in terms of natural disasters (Section 73.3598(b)(i)); (2) the grant of the permit is the subject of administrative or judicial review (Section 73.3598(b)(ii)); (3) there is failure of a Commission-imposed condition precedent to

(Continued from previous page)

See *Oklahoma R&O*, n. 2 *supra*. The Oklahoma proposals were fully spaced to the town center of Archer City, Texas but Texas Grace believed that they would not provide full spacing to Texas Grace's preferred Archer City site. Rather than filing opposing comments, or a counterproposal limited to Oklahoma allotments, Texas Grace filed a counterproposal that would upgrade the Archer City, Texas allotment. Absent Texas Grace's counterproposal, changes to the Archer City allotment would never have been at issue. With respect to the remaining proceeding, Docket No. 00-148, Texas Grace reports that a party filing a counterproposal in that proceeding proposed to modify the channel of the Archer City allotment. No decision on that proposal has yet been reached. See *Notice of Proposed Rulemaking*, MM Docket No. 00-148 (Quanah, Texas), 15 FCC Rcd 15809 (2000). We note that the mere pendency of a rulemaking proposal does not encumber a permittee's ability to construct pursuant to its existing authorization. Further, these circumstances pose no financial risk to the permittee who constructs during such a proceeding. Whenever an existing licensee or permittee is ordered to change frequencies involuntarily to accommodate a new channel allotment, longstanding Commission policy requires the benefiting party or parties to reimburse the affected station for costs incurred. See *Circleville, Ohio*, 8 FCC 2d 159 (1967). Thus, we reject Texas Grace's tolling argument based on allegedly involuntary Archer City allotment changes. The proceedings in MM Dockets 97-225 and 99-23 were voluntary, and were resolved in Texas Grace's favor. The proceeding in Docket No. 99-148 remains ongoing and poses no financial risk to Texas Grace. We conclude that these proceedings have posed no impediment to the prompt construction of the authorized Archer City facilities.

commencement of operation (*Streamlining MO&O*, para. 39); or (4) there is one of the limited circumstances involving LPTV permittees discussed in paragraph 40 of the *Streamlining MO&O*. As we also have stated, we will entertain waiver requests if there are rare and exceptional circumstances beyond the permittee's control which would warrant the tolling of construction time (*Streamlining MO&O*, para. 42).

11. In the interest of thoroughness and to provide guidance to future permittees, we next consider Texas Grace's argument that the staff erred in denying its tolling request. As noted above, the Commission tolls a station's three-year construction period when the permittee notifies the staff, pursuant to 47 C.F.R. § 73.3598(c), that construction has been encumbered by administrative or judicial review of a grant of a construction permit; by judicial review of any cause of action relating to necessary local, state or federal requirements for the construction and/or operation of the station; and/or by an "act of God" (i.e., weather related disasters such as tornadoes, hurricanes, floods, and earthquakes). *Streamlining R&O*, 13 FCC Rcd at 23091. Permit expiration also would be tolled if a party promptly builds but cannot commence operations as required, due to a failure of a Commission-imposed condition precedent. *Streamlining MO&O*, 14 FCC Rcd at 17540. Upon resolution of the *bona fide* tolling event, we allow the permittee to recoup the time during which its permit was encumbered, adjusting the expiration date of the permit so that the permittee will receive a full unencumbered three years to construct.

12. Texas Grace alleges that the staff erroneously ignored certain events that Texas Grace contends would constitute "administrative review" within our tolling rules. According to Texas Grace, the staff characterized its tolling request as relying merely on Texas Grace's own rulemaking requests, but erroneously ignored other staff "review" functions including the "consideration" of counterproposals, issuance of notices of proposed rulemaking, amendment of the table of allotments, "consideration" of Texas Grace's application to implement the change in community of license, and ongoing "consideration" of a rulemaking proposal from another party that has the potential to modify Texas Grace's assigned channel from 248C2 to 230C1. Texas Grace maintains that tolling is warranted because these staff actions "obstructed KRZB's ability to construct its pending Archer City broadcast station." Texas Grace also claims that the staff ignored its argument that its permit was tolled for purposes of administrative review during the pendency of its initial tolling request.

13. We do not find these arguments persuasive. The staff's December 2000 action thoroughly discussed all aspects of Texas Grace's tolling request, specifically identifying and summarizing seven of its arguments. These included Texas Grace's claims of rulemaking as administrative review, health-related problems as "acts of God," and the staff's consideration of its initial tolling request as administrative review. The staff correctly found that neither the rulemaking nor any of the other matters cited by Texas Grace constitute "administrative review" under the new construction period requirements. For tolling purposes, our rules define administrative review as consideration of "petitions for reconsideration and applications for review of the grant of a construction permit." 47 C.F.R. § 73.3598(b)(ii). It is not triggered, as Texas Grace argues, by every action that may need staff approval. Therefore, we find that Texas Grace's arguments were thoroughly considered and properly resolved by the staff, and we uphold the staff's decision for the reasons stated therein. See e.g., *WAMC, Inc.*, 10 FCC Rcd 12219 (1995) (denying application for review raising essentially the same arguments as in petition for reconsideration).

14. Finally, Texas Grace now raises two additional arguments for the first time. It maintains that the denial of its tolling request is inconsistent with the treatment afforded a Caldwell, Texas permittee. It also indicates that it is having difficulty obtaining financing to build the station because its bank has advised that "the shortchanged construction time would pose an unacceptable risk to justify the loan." The Commission's rules provide that "no application for review will be granted if it relies on questions of fact

or law upon which the designated authority has been afforded no opportunity to pass." See 47 C.F.R. § 1.115(c). Accordingly, we decline to address these issues. In any event, we note in passing that *Caldwell* involved a fundamentally different factual situation<sup>10</sup> and that a permittee's financial difficulties are not grounds for tolling.<sup>11</sup> Accordingly, we deny Texas Grace's Application for Review and affirm the staff's decision.

15. Although we affirm the staff's December 14, 2000 decision, which properly denied tolling, we take this opportunity to correct certain staff errors during the course of this proceeding, which resulted in extending the deadline by which Texas Grace must complete construction. As a preliminary matter, the staff's designation of February 7, 2001 (one year from grant of modification) as the expiration date of Texas Grace's permit was in error. The *Streamlining R&O*, 13 FCC Rcd at 23090, eliminated the former practice of giving additional time for permit modifications. Texas Grace's Archer City permit should have specified, pursuant to *Streamlining MO&O*, 14 FCC Rcd at 17536, December 21, 2000 as the correct expiration date. That is the final date to which we extended all valid outstanding broadcast permits that otherwise would have expired previously.

16. The staff also erred in its March 5, 2001 status letter advising Texas Grace that it would receive an additional 79-day period for construction if review is denied. That calculation erroneously assumes that the Commission should treat the pendency of Texas Grace's Petition for Reconsideration and its Application for Review as qualifying "administrative review" tolling events. Those two pleadings, however, were filed in response to the staff's denial of tolling, whereas we restrict "administrative review" to petitions for reconsideration and applications for review which challenge grants of construction permits or of permit extensions, and judicial appeals of Commission action concerning such grants. Thus, if the staff grants an initial permit or a tolling request and another party seeks review of that grant, we do not require a permittee to build pursuant to a grant that is not final and subject to challenge. In contrast, a permittee's unilateral request for review of a denial of a request for additional time to construct, as in the present case, does not raise similar issues and does not fall within the scope of "administrative review" for tolling purposes.<sup>12</sup> 47 C.F.R. § 73.3598(b)(ii). *Streamlining R&O*, 13 FCC Rcd at 23091.<sup>13</sup>

<sup>10</sup> In *Caldwell*, the staff concluded that allocations rulemaking proceedings and related matters generally do not qualify for tolling, but waived the construction rule based on its finding that the lengthy agency and court review of an involuntary channel change in that case created unique circumstances analogous to the administrative and judicial review of the grant of a construction permit. *Letter to Robert J. Buenzle, Esq. from Linda Blair, Chief, Audio Services Division* (October 31, 2000) ("*Caldwell*"). Unlike *Caldwell*, there has been no review of any of the Archer City rulemaking proceedings, nor are the circumstances here analogous at all to that case. See also note 9 *supra*.

<sup>11</sup> To the extent that Texas Grace argues that the staff's actions made it difficult for it to obtain financing, we note that Texas Grace certified when it first applied for its permit that sufficient liquid assets were on hand or that sufficient funds were available from committed sources to construct the proposed facility and to operate it for three months without revenue. See *Application BPH-19960201MB*, Section III, Financial Qualifications. See also, *Merrimack Valley Broadcasting, Inc.*, 82 FCC 2d 166, 167 (1980). Cf. *Instructions for FCC Form 301, General Instruction K* (May 1999) (application form in use today, which no longer contains a financial certification, continues to require reasonable assurance of committed financing sufficient to construct and operate without revenue for three months).

<sup>12</sup> We note that Texas Grace makes a related, but expanded, argument in its Application for Review. Just as we find the staff was mistaken in treating Texas Grace's filing of its Petition for Reconsideration on November 20, (continued....)

17. In sum, we conclude above that Texas Grace has no right to additional time to construct its station under our current rules, as modified in the *Streamlining* proceeding. Nevertheless, due to a possible previous lack of clarity in our policy with respect to changes of communities of license, we will waive our rules on our own motion so as to extend the expiration date of Texas Grace's construction permit to three years from the release date of this order. We deny Texas Grace's emergency stay request to toll the construction period during administrative review of its Application for Review and judicial review of this order. We also deny the request for a stay pending any administrative or judicial review. For the reasons set forth above, the staff's rejection of Texas Grace's arguments fully accorded with our rules, and it is thus unlikely to prevail on the merits of any appeal. See *Virginia Ass'n v. FCC*, 259 F.2d 921 (D.C. Cir. 1958), modified, *Washington Metropolitan Transit Authority v. Holiday Tours*, 559 F.2d 841 (D.C. Cir. 1977). Further, there is no evidence of irreparable injury here, as Texas Grace may well complete construction prior to the expiration of the permit, which has been substantially extended by waiver herein. *Id.* Indeed, since Texas Grace is being granted more time to construct than it would be entitled to without a rule waiver, it has suffered no injury at all.

18. Accordingly, IT IS ORDERED that the Application for Review filed by Texas Grace Communications IS DENIED and that its Motion for Stay IS DENIED. On our own motion, 47 C.F.R. Section 73.3598(a) IS WAIVED to provide that the construction permit for station KRZB(FM) will expire three years from the release date of this order. Texas Grace must complete construction by that date and timely file an application for a license to cover the authorized facilities. Failure to file a timely license application will result in the automatic cancellation of the KRZB(FM) construction permit.

#### FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas  
Secretary

(Continued from previous page) —

2000 as initiating administrative review, we similarly reject Texas Grace's argument that it would qualify for tolling from October 20, 2000 (the date the staff denied its tolling request) continuing to the date on which any judicial appeal from this decision is resolved.

<sup>13</sup> The treatment of the filing of the Petition for Reconsideration and Application for Review as tolling events was also erroneous for a second, independent reason. When Texas Grace filed its Petition for Reconsideration on November 20, 2000, it had already received an unencumbered construction period of four years, one month, and 13 days from the October 7, 1996 grant of KRZB's original permit, whereas the *Streamlining R&O*, in permitting the extension of then-outstanding construction permits to take advantage of the new three-year construction period and tolling procedures specifically noted that "[n]o additional time will be granted when the permittee has had, in all, at least three unencumbered years to construct." *Streamlining R&O*, 13 FCC Rcd at 23092. For these reasons, Texas Grace will not be eligible for a further extension of the construction deadline we provide by our action herein.

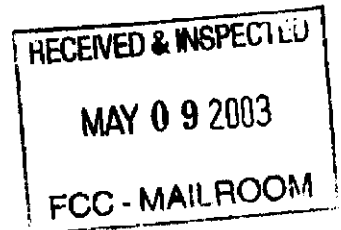
Attachment D

(Report & Order, DA 03-1533, released May 8, 2003)

Before the  
Federal Communications Commission  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of )  
 )  
Amendment of Section 73.202(b), )  
Table of Allotments, ) MM Docket No. 00-148  
FM Broadcast Stations. ) RM-9939  
(Quanah, Archer City, Converse, Flatonia, ) RM-10198  
Georgetown, Ingram, Keller, Knox City, )  
Lakeway, Lago Vista, Llano, McQueeney, )  
Nolanville, San Antonio, Seymour, Waco and )  
Wellington, Texas, and Ardmore, Durant, )  
Elk City, Healdton, Lawton and Purcell, )  
Oklahoma.)



**REPORT AND ORDER**  
(Proceeding Terminated)

Adopted: May 7, 2003

Released: May 8, 2003

By the Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rule Making* in the captioned proceeding.<sup>1</sup> Nation Wide Radio Stations filed Comments and Reply Comments. First Broadcasting Company, L.P., Rawhide Radio, L.L.C., Next Media Licensing, Inc., Capstar TX Limited Partnership and Clear Channel Broadcast Licenses, Inc. ("Joint Parties") filed a Counterproposal and Reply Comments. Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd. filed Joint Reply Comments. Elgin FM Limited Partnership and Charles Crawford ("Elgin-Crawford") jointly filed Reply Comments and Maurice Salsa filed Reply Comments.<sup>2</sup> For the reasons discussed below, we are dismissing both the initial proposal for Channel 233C3 at Quanah, Texas, and the Counterproposal.

Background

2. At the request of Nation Wide Radio Stations, the *Notice* in this proceeding proposed the allotment of Channel 233C3 to Quanah, Texas.<sup>3</sup> In response to the *Notice*, the Joint Parties filed a Counterproposal involving twenty-two communities in Texas and Oklahoma. In one aspect of this Counterproposal, the Joint Parties propose the substitution of Channel 248C for Channel 248C2 at Durant, Oklahoma, reallocation of Channel 248C to Keller, Texas, and modification of the Station KLAK license to specify operation on Channel 248C at Keller, Texas. In order to accommodate this allotment, the Joint Parties propose three channel substitutions. Included among those substitutions was the

<sup>1</sup> 15 FCC Red 15809 (MM Bur. 2000).

<sup>2</sup> In this proceeding, Texas Grace Communications, Elgin FM Limited Partnership, Charles Crawford, Maurice Salsa, M&M Broadcasters, AM&FM Broadcasters and the Joint Parties have filed additional pleadings. In view of our action dismissing the Joint Parties Counterproposal, it will not be necessary to discuss these pleadings in the context of this *Report and Order* terminating this proceeding.

<sup>3</sup> Nation Wide Radio Stations has withdrawn its expression of interest in this allotment. In accordance with Section 1.420(j) of the Rules, Nationwide Radio Stations states that neither it nor any of its principals have been paid or promised any consideration for the withdrawal of its expression of interest in the Quanah allotment.



substitution of Channel 230C1 for Channel 248C1 at Archer City, Texas, and the modification of the Station KRZB permit to specify operation on Channel 230C1. On the basis of our own engineering review, Joint Reply Comments filed by Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd., and Reply Comments filed by Maurice Salsa, the proposed transmitter site (33-36-58 and 98-51-42) for the Channel 230C1 allotment at Archer City is short-spaced to a prior-filed application filed by AM & FM Broadcasters, LLC, licensee of Station KICM, Channel 229C2, Krum, Texas, to upgrade to Channel 229C1 (File No. BMPH-20000725AAZ) (the "KICM Class C1 Application").

3. Counterproposals that are in conflict with a previously filed application can be considered if the counterproposal is amended to remove the conflict within 15 days from the date the counterproposal appears on public notice.<sup>4</sup> The Note also requires a counterproponent to show that it could not have known by exercising due diligence of the pending conflicting FM application. The Joint Parties and AM & FM Broadcasters submitted Reply Comments addressing this issue. Under the agreement, AM & FM Broadcasters agrees to file an application to downgrade Station KICM to Channel 229C2 in the event its application is granted and the Counterproposal is adopted. Pursuant to the agreement, the Joint Parties would "compensate" AM & FM Broadcasters for the downgrade of Station KICM. On August 20, 2001, the staff granted the KICM Class C1 Application.

#### Discussion

4. We dismiss the Counterproposal because the proposed Archer City Channel 230C1 allotment is short-spaced to the KICM Class C1 construction permit. The Joint Parties have not shown that they could not have known about the then-conflicting KICM Application. Nor have the Joint Parties sought to amend their Counterproposal to protect the proposed Archer City Channel 230C1 allotment.

5. The Commission does not entertain a short-spaced allotment that is contingent on the grant of another application.<sup>5</sup> This is precisely what the Joint Parties seek. The Archer City allotment is short-spaced to the KICM construction permit and contingent on the staff granting future applications by AM & FM Broadcasters for both a Class C2 construction permit and license. We reject Joint Parties argument that its downgrade proposal complies with the contingent application procedures set forth in Section 73.3517(e) of the Commission's Rules. Section 73.3517(e) permits the simultaneous acceptance of contingent *minor change applications*. It does not authorize the filing of contingent rulemaking petitions. Accordingly, the Counterproposal must be dismissed.

#### Alternative Proposals

6. The Joint Parties filed an alternative twelve-allotment proposal in anticipation of a staff determination that the Channel 230C1 Archer City allotment is impermissibly short-spaced to the KICM permit. We reject this alternative. A counterproposal must conflict with the proposal set forth in the *Notice*.<sup>6</sup> In this instance, none of these proposals conflict with Nation Wide Radio Station's initial proposal for a Channel 233C3 allotment at Quanah. As such, we will not bifurcate the Counterproposal or otherwise consider any of these proposals in the context of this proceeding.<sup>7</sup>

<sup>4</sup> See Note to Section 73.208 of the Rules; see also *Conflicts Between Applications and Petitions for Rule Making to Amend the FM Table of Allotments*, 8 FCC Rcd 4743 (1993).

<sup>5</sup> See *Oxford and New Albany, Mississippi*, 3 FCC Rcd 615 (MM Bur. 1988), *recon.* 3 FCC Rcd 6626 (MM Bur. 1988); see also *Cut and Shoot, Texas*, 11 FCC Rcd 16383 (MM Bur. 1996).

<sup>6</sup> See *Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcast Assignments*, 5 FCC Rcd 931, n. 5 (1990).

<sup>7</sup> See also *Broken Arrow and Bixby, Oklahoma, Coffeyville, Kansas*, 3 FCC Rcd 6507 (MM Bur. 1988).

7. In the event that its Counterproposal can not be favorably entertained, the Joint Parties advance two alternative proposals. The staff no longer entertains alternative proposals set forth in counterproposals.<sup>8</sup> In any event, each of these alternatives fails to comply with our rules and procedures. The first proposal involves the proposal to reallocate Channel 248C to Keller, Texas, and modify the Station KLAJ license to specify operation on Channel 248C at Keller. A Channel 248C allotment at Keller requires the substitution of Channel 230C1 at Archer City, and thus, cannot be considered. The second alternative only proposes the substitution of Channel 247C1 for Channel 248C at Waco, Texas, reallocation of Channel 247C1 to Lakeway, Texas, and modification of the Station KWTX license to specify operation on Channel 247C1 at Lakeway. The Joint Parties also proposed related channel substitutions necessary to accommodate this reallocation. However, none of these proposed channel substitutions conflict with the underlying Channel 233C3 allotment at Quanah, Texas, proposed in the *Notice*.

8. Accordingly, **IT IS ORDERED**, That the aforementioned proposal filed by Nation Wide Radio Stations for a Channel 233C3 allotment at Quanah, Texas, **IS DISMISSED**.

9. **IT IS FURTHER ORDERED**, That the aforementioned Counterproposal filed by the Joint Parties **IS DISMISSED**.

10. **IT IS FURTHER ORDERED**, That this proceeding **IS TERMINATED**.

11. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

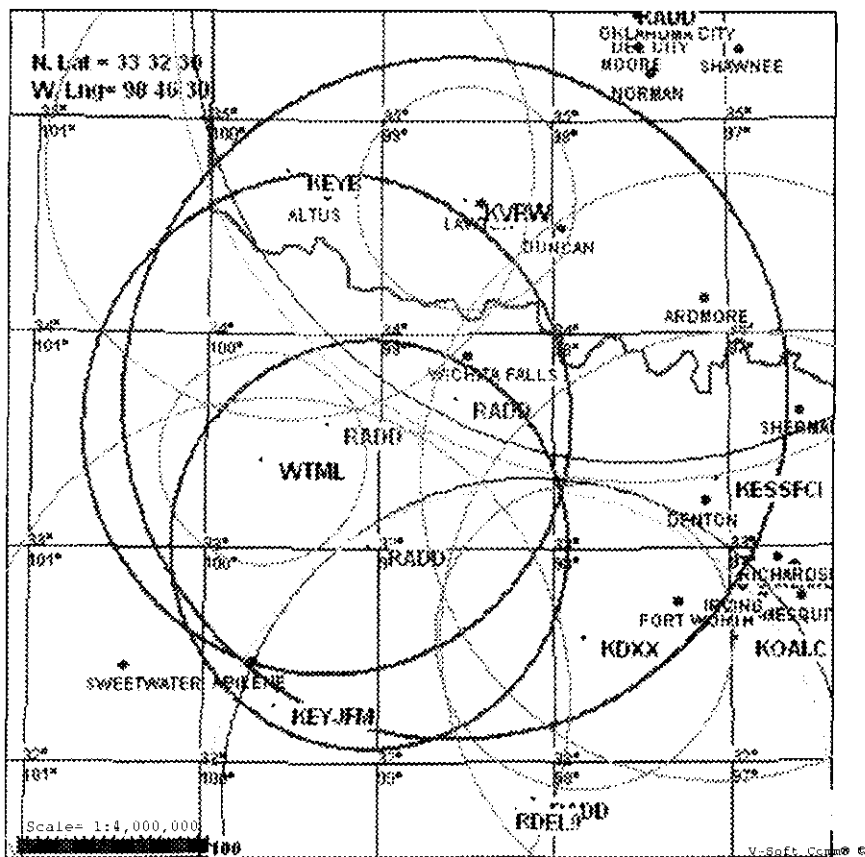
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<sup>8</sup> See *Winslow, Camp Verde, Mayer and Sun City West, Arizona*, 16 FCC Rcd 9551 (MM Bur. 2001).

**Attachment E**

(Channel Study for Channel 299C2 at Archer City, Texas)

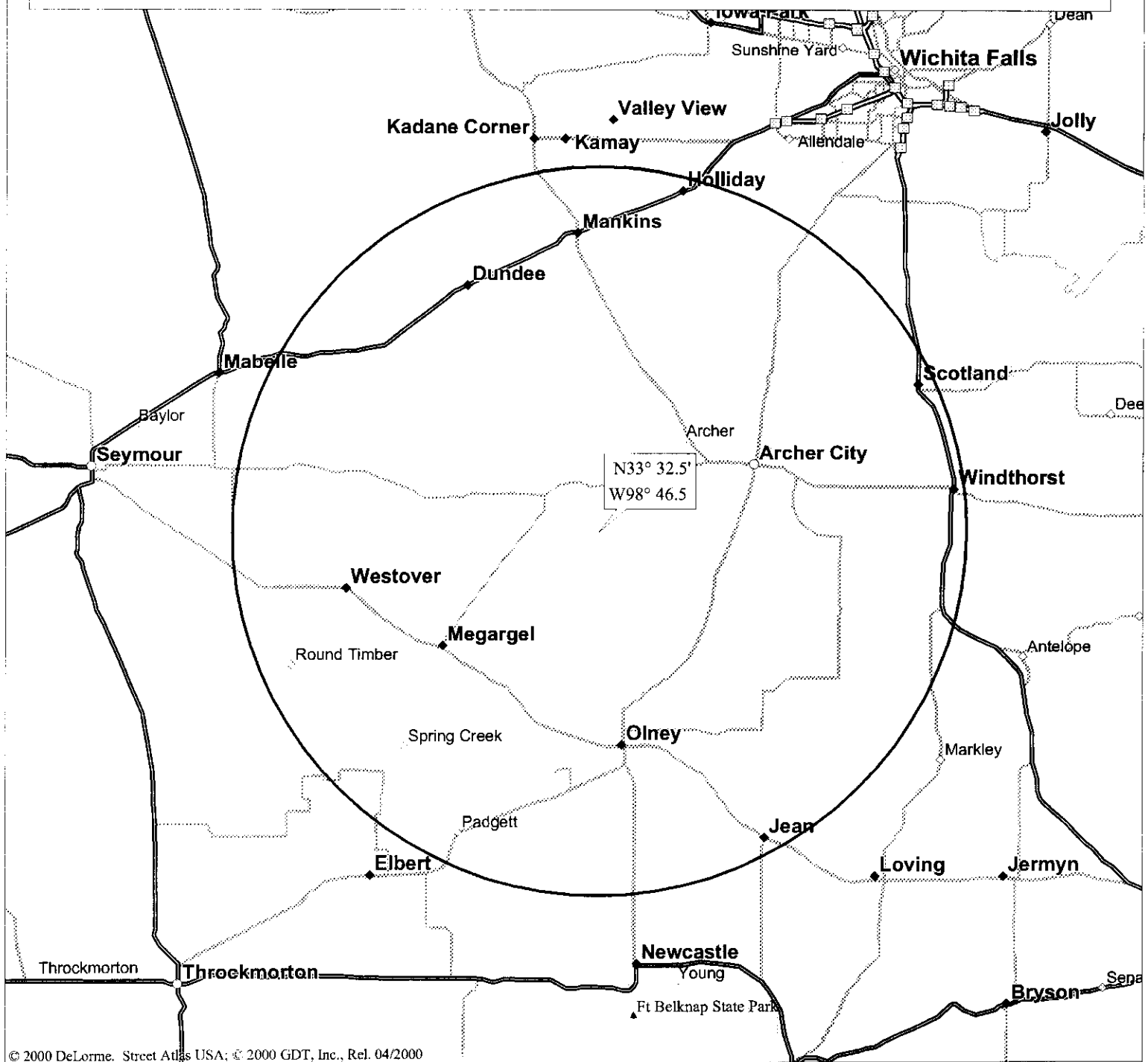
FM PROSP<sup>(TM)</sup> LOCATE STUDY CH 299 C2 107.7 MHz



Dates:  
Data:09-28-04  
Job :09-28-04

Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
RADD	299C3	ADD	Holliday	TX	26.12	47.6	177.0	-150.88
RADD	298C2	ADD	Seymour	TX	48.96	275.2	130.0	-81.04
RADD	298A	ADD	Woodson	TX	63.96	203.9	106.0	-42.04
KEYJFM	300C1	LIC	Abilene	TX	159.87	208.7	158.0	1.87
KESSFM	300C1	LIC-Z	Lewisville	TX	160.72	98.0	158.0	2.72
KESSFC	300C1	CP	Lewisville	TX	160.72	98.0	158.0	2.72
RDEL	299C	DEL	Oklahoma	OK	252.10	27.5	249.0	3.10
KRXO	299C*	LIC	Oklahoma City	OK	252.10	27.5	249.0	3.10
RADD	299C0	ADD	Oklahoma	OK	252.10	27.5	239.0	13.10
KEYB	300C2	LIC	Altus	OK	153.46	333.0	130.0	23.46
RDEL	297A	DEL	Knox City	TX	84.42	260.8	55.0	29.42
WTML	297A	VAC	Knox City	TX	84.42	260.8	55.0	29.42
RADD	299A	ADD	Hamilton	TX	199.34	161.9	166.0	33.34
AL299	299A	VAC	Hamilton	TX	202.44	164.5	166.0	36.44
RDEL	299A	DEL	Hamilton	TX	202.44	164.5	166.0	36.44
KOAI	298C1	LIC	Fort Worth	TX	199.76	121.7	158.0	41.76
KOAI.C	298C1	CP	Fort Worth	TX	199.76	121.7	158.0	41.76
KDXX	296C1	LIC N	Benbrook	TX	137.84	140.1	79.0	58.84
KVRW	297C2	LIC	Lawton	OK	123.94	11.4	58.0	65.94

# Archer City, TX CH 299C2 70 dBu



© 2000 DeLorme. Street Atlas USA; © 2000 GDT, Inc., Rel. 04/2000

Mag 10.00

Tue Sep 28 10:51 2004

Scale 1:500,000 (at center)

10 Miles

10 KM

- Local Road
- US Highway
- Interstate/Limited Access
- Rest Area with facilities
- Major Connector
- State Route
- Exit
- Point of Interest

- County Seat
- Small Town
- Large City
- Park/Reservation
- Locale
- Sched Service Airport
- Land
- Water

**Attachment F**

(Withdrawal for Channel 299C3 at Holliday, Texas)

October 1, 2004

Ms. Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
12<sup>th</sup> Street Lobby - TW - A325  
Washington, D.C. 20554

Re: Motion to Dismiss  
Holliday, Texas (Channel 299C3)

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of my  
Motion to Dismiss Petition for the new allotment, Channel  
299C3, at Holliday, Texas.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Charles Crawford', with a large, stylized flourish at the end.

Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205  
(214) 520-7077      Tele

Held

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of                    )  
  )  
Amendment of 73.202 (b)        )     MB Docket No. \_\_\_\_\_  
Table of Allotments            )  
FM Broadcast Stations         )  
(Holliday, Texas                )

To: John Karousos, Assistant Chief  
Audio Division of the  
Media Bureau

Motion to Dismiss Petition

I, Charles Crawford, respectfully move that the FCC dismiss my Petition, filed on or about July 30, 2003, to allot Channel 299C3 to Holliday, Texas. I have decided not to pursue a station in Holliday, Texas as this time.

An appropriate Affidavit, required by 47 CFR 1.420(j), is attached hereto.

Respectfully submitted,



Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205  
(214) 520-7077           Tele

October 1, 2004

HolDDD




SWORN AFFIDAVIT

Charles Crawford does state under penalty of perjury:

1. My name is Charles Crawford and I filed a Petition for Rulemaking to allot Channel 299C3 to Holliday, Texas, on or about July 30, 2003.
2. I have decided not to pursue the allotment of Channel 299C3 at Holliday, Texas at this time and have therefore concluded to request that the FCC dismiss my Petition/ expression of interest. I hereby certify that I have not nor will not receive, either directly or indirectly, any money or other consideration in connection with the dismissal of the Petition/ expression of interest. I declare that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 1<sup>st</sup> day of October, 2004.



Charles Crawford

**Attachment G**

(Withdrawal for Channel 298A at Woodson, Texas)

September 29, 2004

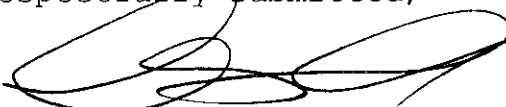
Ms. Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
12<sup>th</sup> Street Lobby - TW - A325  
Washington, D.C. 20554

Re: Motion to Dismiss  
Woodson, Texas (Channel 298A)

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of my  
Motion to Dismiss Petition for the new allotment, Channel  
298A, at Woodson, Texas.

Respectfully submitted,



Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205  
(214) 520-7077      Tele

WoodD

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of                    )  
                                      )  
Amendment of 73.202 (b)    )    MB Docket No. \_\_\_\_\_  
Table of Allotments        )  
FM Broadcast Stations      )  
(Woodson, Texas            )

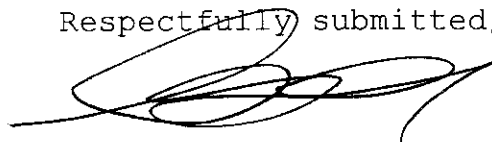
To: John Karousos, Assistant Chief  
Audio Division of the  
Media Bureau

Motion to Dismiss Petition

I, Charles Crawford, respectfully move that the FCC dismiss my Petition, filed on or about March 18, 2004, to allot Channel 298A to Woodson, Texas. I have decided not to pursue a station in Woodson, Texas as this time.

An appropriate Affidavit, required by 47 CFR 1.420(j), is attached hereto.

Respectfully submitted,



Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205  
(214) 520-7077           Tele

September 29, 2004


WoodDD

SWORN AFFIDAVIT

Charles Crawford does state under penalty of perjury:

1. My name is Charles Crawford and I filed a Petition for Rulemaking to allot Channel 298A to Woodson, Texas, on or about March 18, 2004.
2. I have decided not to pursue the allotment of Channel 298A at Woodson, Texas at this time and have therefore concluded to request that the FCC dismiss my Petition/ expression of interest. I hereby certify that I have not nor will not receive, either directly or indirectly, any money or other consideration in connection with the dismissal of the Petition/ expression of interest. I declare that the foregoing is true and correct to the best of my knowledge, information and belief.

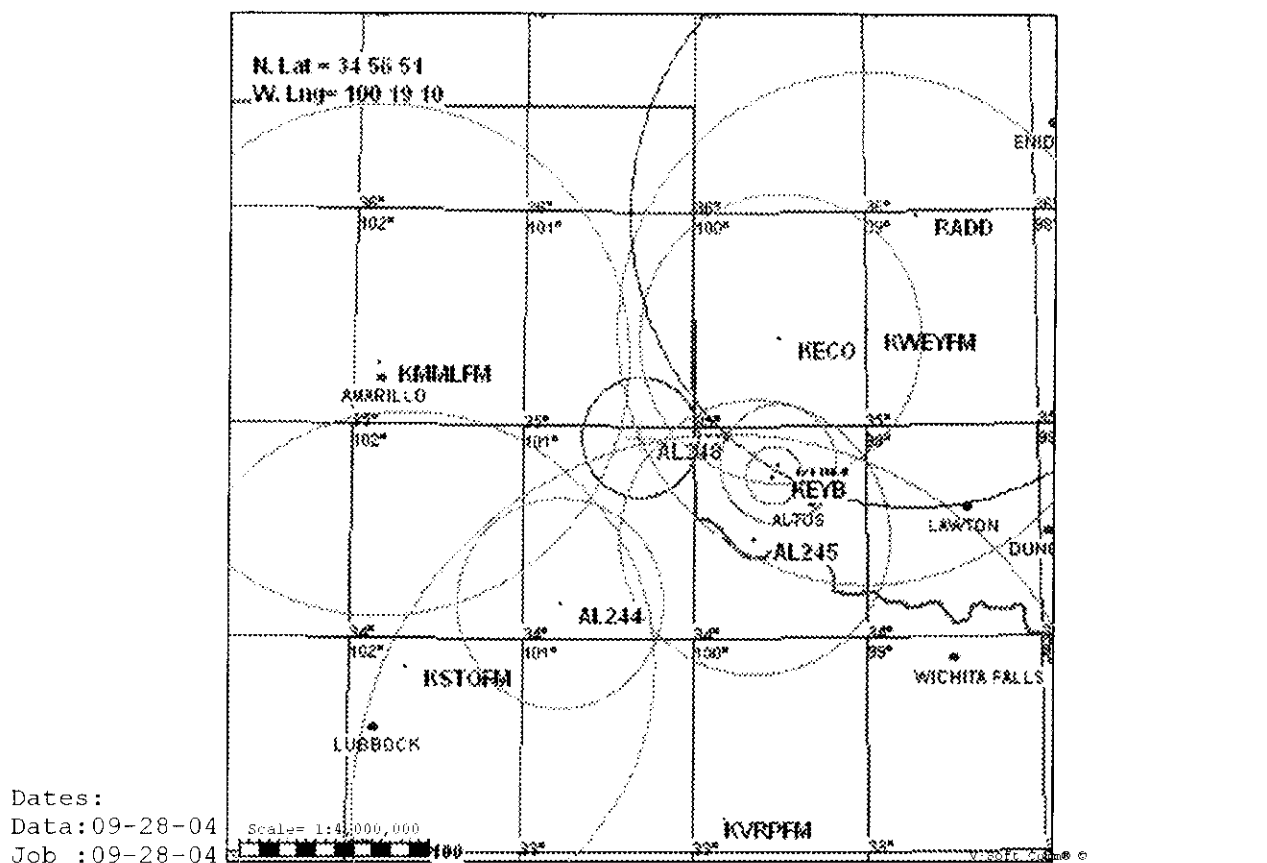
Executed this 29<sup>th</sup> day of September, 2004.



Charles Crawford

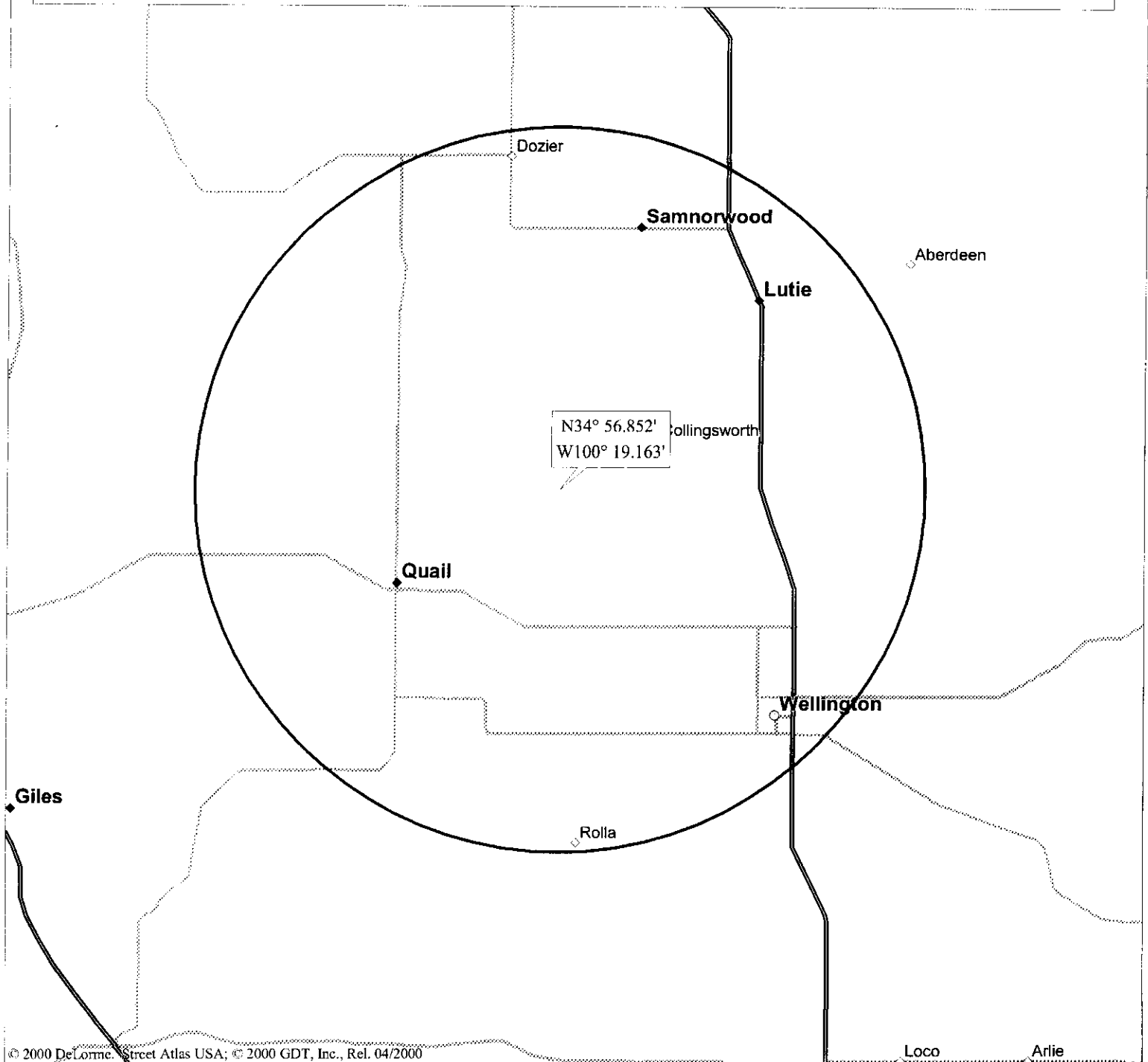
**Attachment H**

(Channel Study for Channel 246A at Wellington, Texas)



Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
AL248	248A	VAC	Wellington	TX	0.00	0.0	31.0	-31.00
RDEL	247C1	DEL	Weatherford	OK	133.08	65.0	133.0	0.08
KWEYFM	247C1	LIC	Weatherford	OK	133.08	65.0	133.0	0.08
KVRPFM	246C1	LIC	Haskell	TX	203.53	166.7	200.0	3.53
AL245	245A	VAC	Eldorado	OK	80.91	130.5	72.0	8.91
KMMLFM	245C1	LIC	Amarillo	TX	144.38	285.9	133.0	11.38
KECO	243C1	LIC	Elk City	OK	90.46	55.4	75.0	15.46
RADD	245C0	ADD	Enid	OK	186.76	51.5	152.0	34.76
KSTQFA	247C1	APP	Plainview	TX	172.84	226.1	133.0	39.84
KSTQFM	247C1	LIC-D	Plainview	TX	172.84	226.1	133.0	39.84
AL244	244C2	VAC	Turkey	TX	96.19	206.1	55.0	41.19
KHIM	249A	LIC	Mangum	OK	74.88	100.5	31.0	43.88
KEYB	300C2	LIC	Altus	OK	74.02	105.2	15.0	59.02

# Wellington, TX CH 246A 70 dBu



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Mag 11.00

Tue Sep 14 15:14 2004

Scale 1:250,000 (at center)

5 Miles

5 KM

- US Highway
- Major Connector
- State Route
- County Seat
- Small Town
- Locale
- Water